IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.310 OF 2007

Commissioner of Income Tax, Aurangabad ..Appellant.

V/s.

Shetkari Sahakari Sakhar Karhnana Ltd. ..Respondent.

Mr.B.M.Chatterjee with Ms.Poonam Bhosale for appellant.

Mr.S.N.Inamdar with A.K.Jasani for respondent.

CORAM : F.I.REBELLO AND
J.P.DEVADHAR, JJ.

DATED : 25TH JULY, 2007.

P.C. :-

1. The Commissioner of Income Tax, Aurangabad has filed this appeal under 260A of the Income Tax Act, 1961 stating that the following question of law arise out of the order dated 24/5/2002 of the Tribunal.

> " Whether on the facts and in the circumstances of the case, the Tribunal relying upon the Bombay High Court's decision in the case of CIT V/s. Chatrapati SSK Ltd. (2000) (245 ITR 498) was a good law in deleting the additions by holding that various funds / deposits collected by the assessee society out of sugarcane purchase price payable to the sugar cane growers are not the trading receipts of the assessee as held by the Supreme Court in the case of Bazpur Co-operative Sugar Factory Ltd. (172) ITR 321 ?

2. Counsel on both sides agree that the

question raised by the revenue is answered by the Apex Court in the case of **Siddeshwar Sahakari Sakhar Karkhana Ltd. V/s. C.I.T.** reported in **270 I.T.R. 1**.

3. Accordingly, the appeal is disposed of by remanding the issue relating to cane development and area development fund to the I.T.A.T. for fresh consideration in the light of the decision of the Apex Court. As regards the other items are concerned, it is held that the same do not constitute trading receipts of the assessee.

4. Appeal is disposed of accordingly with no order as to costs.

(F.I.REBELL0, J.)

(J.P.DEVADHAR, J.)